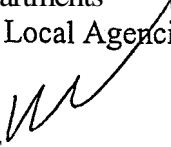




**TEXAS DEPARTMENT OF HEALTH**  
**AUSTIN, TEXAS**  
**INTER-OFFICE MEMORANDUM**

**TO:** Herman Horn, Chief, Bureau of Regional & Local Health Operations  
 Regional Directors  
 Directors, Local Health Departments  
 Directors, Independent WIC Local Agencies

**FROM:** Bob Kissel, Acting, Chief   
 Bureau of Nutrition Services

**DATE:** September 1, 2000

**SUBJECT:** Announcement of Texas Department of Health Policy Affecting WIC Contractors  
 Regarding Rider 18, Child Abuse Screening, Documenting and Reporting

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Article II of the General Appropriations Act for fiscal years 2000-2001 includes the Texas Department of Health (TDH) Rider 18 relating to the reporting of child abuse. The rider states that TDH **“may distribute or provide appropriated funds only to recipients which show good faith efforts to comply with all child abuse reporting guidelines and requirements set forth in Chapter 261, Texas Family Code.”** Provisions of the General Appropriations Act became effective September 1, 1999.

Programs which are affected by Rider 18 are:

- WIC
- Family Planning
- Title V Maternal and Child Health including Case Management
- Primary Health Care
- HIV/STD
- Medicaid, including Texas Health Steps

TDH has always had the understanding and expectations that its contractors report child abuse according to the law. To emphasize that expectation, TDH directed amendment of TDH grant contracts effective September 1, 1999 to specifically require a good faith effort by TDH contractors and subcontractors to comply with Chapter 261, Texas Family Code. Additionally, USDA confidentiality instructions clearly say that if state law requires the reporting of known or suspected child abuse or neglect, WIC staff must comply and release such client information.

Beginning with the inception of fiscal year 2001 contracts, contractors and their subcontractors will be required to implement and enforce the TDH Child Abuse Screening, Documenting, and Reporting Policy for reporting all suspected instances of child abuse consistent with all requirements of Chapter 261, Texas Family Code. For WIC contractors, this effective date is October 1, 2000. Each local agency must train staff on all reporting requirements and use the Checklist for TDH Monitoring for any client under 14 years of age who is pregnant or has a confirmed sexually transmitted disease acquired other than through perinatal transmission. TDH expectations for "good faith effort" will be met if the local agency adequately complies with these requirements.

The scope of the TDH Quality Assurance process will now include monitoring to determine such compliance by 1) reviewing all contractor records at reviewed sites relating to services to minors under age 14 who are pregnant or have a confirmed diagnosis of a sexually transmitted disease acquired other than through perinatal transmission; 2) determining if the Checklist was used; and 3) determining if child abuse was reported. Use of the checklist for TDH monitoring of reporting of abuse of children younger than 14 who are pregnant or have STDs acquired in a manner other than through perinatal transmission does not relieve contractors or subcontractors of the requirements in Chapter 261, Texas Family Code, to report any other instance of suspected child abuse.

Your agency will soon be receiving an addenda item from the TDH Grants Management Division updating the FY 2001 General Provisions of your contract stating the following contract provision on child abuse reporting requirements:

*Performing Agency and each of its subrecipients shall make a good faith effort to comply with all child abuse reporting guidelines and requirements in Chapter 261 of the Texas Family Code relating to investigations of reports of child abuse and neglect. **Performing** Agency and each of its subrecipients shall develop, implement and enforce a written policy that includes at a minimum the Receiving Agency's Child Abuse, Screening, Documenting, and Reporting Policy for Grants Services Contractors and train all staff on reporting requirements. Performing Agency and its subrecipients shall use the Checklist for Monitoring as required by Receiving Agency.*

The referenced policy, checklist, and monitoring procedure are included with this memo and are also available on the TDH Web site at <http://www.tdh.state.tx.us/rider18.htm>. The policy and checklist are **not** to be made a part of the WIC Policy and Procedure Manual but should be kept separately. Additional information about Rider.1 8 which can be found on the TDH web site include:

- Responses to Comments from the 7/26/00 Stakeholders Meeting
- TDH Plan for Implementing Rider 18
- Statutory References (Rider 18, Article II, General Appropriations Act; Provisions from the Texas Penal Code and the Texas Family Code)

Failure by a contractor to develop, implement, or enforce a policy or to train staff, can result in withholding of funds payable to the contractor until the contractor has corrected the failure. Failure to complete the Checklist for clients under age 14 who are pregnant or have a confirmed diagnosis of sexually transmitted disease acquired in a manner other than through perinatal transmission, when required, or failure to report suspected child abuse can result in the permanent withholding of funds

or demand for repayment of funds relating to the provision of services to the minor for whom no checklist was used, if required, or no report made.

Any questions regarding the implementation of the policy/checklist or questions about your TDH WIC contract related to this addenda item should be directed to:

Valerie Wolfe, Policy Director  
Bureau of Nutrition Services  
phone (512) 458-7111 ext. 2072 or fax (512) 458-7446  
email: Valerie.Wolfe@tdh.state.tx.us

We would appreciate you contacting Ms. Wolfe during the first month of implementation of the requirements in order for us to track issues, concerns, and what might need further clarification. After the initial month of implementation, the state agency training and technical assistance staff, including the Information and Response Management (IRM) liaisons, will continue with ongoing assistance.

Thank you in advance for your cooperation in implementing this important initiative to safeguard the health and well-being of the children we serve. Please do not hesitate to call Ms. Wolfe if you have any questions or comments.

Attachments: TDH Child Abuse Screening, Documenting, and Reporting Policy  
Checklist for TDH Monitoring  
Quality Assurance Monitoring Division Policy and Procedures

## TDH Child Abuse Screening, Documenting, and Reporting Policy. for Grant Services Contractors

Each contractor/provider shall comply with the provisions of state law as set forth in Chapter 261 of the Texas Family Code relating to investigations of reports of child abuse and neglect and the provisions of this Texas Department of Health (TDH) policy. TDH shall distribute funds only to a contractor/provider who has demonstrated a good faith effort to comply with child abuse reporting guidelines and requirements in Chapter 261 and this TDH policy. Contractor/provider staff shall respond to disclosures or suspicions of abuse/neglect of minors by reporting to appropriate agencies as required by law.

### Procedures:

- I. Each contractor/provider shall adopt this policy as its own.
- II. Each contractor/provider shall report suspected sexual abuse of a child as described in this policy and as required by law.
- III. Each contractor/provider shall develop an internal policy and procedures which describe how it will determine, document, and report instances of abuse, sexual or nonsexual, in accordance with the Texas Family Code, Chapter 261.

### Reporting Generally:

- I. Professionals as defined in the law are required to report not later than the 48th hour after the hour the professional first has cause to believe the child has been or may be abused or is the victim of the offense of indecency with a child.
- II. Nonprofessionals shall immediately make a report after the nonprofessional has cause to believe that the child's physical or mental health or welfare has been adversely affected by abuse.
- III. A report shall be made regardless of whether the contractor/provider staff suspect that a report may have previously been made.
- IV. Reports of abuse or indecency with a child shall be made to:
  - A. Texas Department of Protective and Regulatory Services (DPRS) if the alleged or suspected abuse involves a person responsible for the care, custody or welfare of the child (DPRS Texas Abuse Hotline at 1-800-252-5400 operated 24 hours a day, seven days a week);
  - B. any local or state law enforcement agency;
  - C. the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
  - D. the agency designated by the **court** to be responsible for the protection of children.

- V. The law requires that the following be reported:
- A. name and address of the minor, if known;
  - B. name and address of the minor's parent or the person responsible for the care, custody or welfare of the child if not the parent, if known; and
  - C. any other pertinent information concerning the alleged or suspected abuse, if known.
- VI. Reports can be made anonymously:
- VII. A contractor/provider may not reveal whether or not the child has been tested or diagnosed with HIV or AIDS.
- VIII. If the identity of the minor is **unknown** (e.g., the minor is at the provider's office to anonymously receive testing for HIV or an STD), no report is required.

Reporting Suspected Sexual Abuse:

- I. Each contractor/provider shall ensure that its employees, volunteers or other staff report a victim of abuse who is a minor under 14 years of age who has engaged in sexual activity with any individual to whom the minor is not married. Sexual activity would be indicated if the minor is pregnant or has a confirmed sexually transmitted disease acquired in a manner other than through perinatal transmission.
- II. Sexual activity may include, but is not limited to, the actions described in:
  - A. Penal Code, §21.11 (a) relating to indecency with a child;
  - B. Penal Code, §21.01(2) defining "sexual contact";
  - C. Penal Code, §43.01(1) or (3)-(5) defining various sexual activities; or
  - D. Penal Code, §22.01 l(a)(2) relating to sexual assault of a child.
  - E. Penal Code, §22.021(a)(2) relating to aggravated sexual assault of a child.
- III. Each contractor/provider shall utilize the attached Checklist for TDH Monitoring for all clients under 14 years of age who are unmarried and sexually active. The checklist shall be retained by each contractor/provider and available during TDH monitoring in a manner required by the program.

Training

- I. Each contractor/provider shall develop training for all staff on the policies and procedures in regard to reporting child abuse. New staff shall receive this training as part of their initial training/orientation. Training shall be documented.
- II. As part of the training, staff shall be informed that the staff person who conducts the screening and has cause to suspect abuse has occurred is legally responsible for reporting. A joint report may be made with the supervisor.

# Quality Assurance Monitoring Division Policy and Procedures for Grant Services Contractors

Policy: Contractors/providers will be monitored to ensure compliance with screening for child abuse and reporting according to Chapter 261 of the Texas Family Code.

## Procedures:

During site monitoring of contractors/providers by the Quality Assurance Monitoring Division the following procedures will be utilized to evaluate compliance with Chapter 261:

- 1) The contractor's/provider's process used to ensure that staff are reporting according to the Chapter 261 will be reviewed as part of the Core Tool, Section I, A, # 2.
- 2) The contractor's/provider's written procedures which are utilized by their staff to screen, document and report child abuse, as required, will be reviewed as part of the Core Tool, Section H, # 7.
- 3) The contractor's/provider's documentation of staff training on child abuse reporting requirements and procedures will be reviewed as part of the Core Tool, Section H, # 8.
- 4) All clinical/case management records of clients under 14 years of age who are pregnant or have an STD acquired in a manner other than through perinatal transmission in the clinic or site being visited during a site monitoring visit will be reviewed for appropriate screening and reporting documentation as required. The review of the records will involve reviewing for the Checklist for TDH Monitoring provided by TDH programs and the documentation of reporting, if appropriate. Records should evidence a Checklist for TDH Monitoring on any client under 14 years of age who is pregnant or has an STD acquired in a manner other than through perinatal transmission and documentation of reporting, as appropriate. The records to be reviewed for compliance are only those for services provided since the policy went into effect.
- 5) If during the record review process, noncompliance is identified, the staff person responsible will be notified and asked to make a report as required by law. The contractor/provider Director will be notified of the problem (or WIC Director for contractors that are WIC only contractors). Noncompliance will again be identified during the Exit Conference with the contractor/provider. One incidence constitutes noncompliance.
- 6) If it is found during routine record review of records for services prior to this policy going into effect that a report should have been made as evidenced by the age of the client and evidence of sexual activity, the failure to appropriately screen and report will be identified as lack of compliance with TDH policy and the TDH Quality Assurance Monitoring Division will identify the need for the contractor/provider to train staff. Failure to report will be brought to the attention of the staff person who should have made the report with a request to immediately report. This failure to report will also be discussed with the contractor/provider Director (or if a WIC only contractor, the WIC Director). However, this will not constitute a finding since it was prior to the policy going into effect.

7) The report sent to the contractor/provider will also indicate the number of records reviewed in each clinic that were found to be out of compliance. This report will be sent to the contractor/provider 4 to 6 weeks from the date of the review, which is the usual process for Site Monitoring Reports.

8) The contractor/provider will then be given 6 weeks (as in the current process) to respond with written corrective actions to all findings. If the contractor/provider has other findings that warrant a follow-up visit, a follow-up visit will be conducted by either regional or central office staff. Records and/or policies will again be reviewed to ensure compliance with Chapter 261 requirements. Only records since the last visit will be reviewed for the follow-up visit. If the contractor/provider was out of compliance with child abuse reporting requirements, those policies will also be reviewed. A pattern of noncompliance with Chapter 261 for the contractor/provider will be established if on a follow-up visit, during the same contract term, this finding is again identified. It is only after a pattern is established that the contractor/provider will be referred to the appropriate program for sanctioning.

9) If the contractor/provider does not provide corrective actions during the required time period, the contractor/provider will be sent a past due letter with a time period of 10 days to submit the corrective actions. If the corrective actions are not submitted during the time period given, the contractor/provider will be referred to the program for financial sanctioning due to noncompliance with Chapter 261. For all other findings, a call will be made to the contractor/provider by the QA Monitoring Division Director to ensure that the contractor/provider submits corrective actions that address all other areas.

10) If a contractor/provider is found to have minimal findings but has a pattern of staff not following the required policies and procedures on reporting child abuse, a follow-up visit will not be conducted. However, the corrective actions submitted by the contractor/provider will be reviewed to ensure that the issues have been addressed and the agency will be required to provide a progress report within 3 months after the corrective actions are begun (6 months from the initial visit). The report will request that the contractor/provider provide evidence of implementing the policy and training of staff. Failure to submit a progress report within the required time period or submission of a report that is not adequate, during the same contract term as the initial visit, constitutes a pattern of noncompliance with Chapter 261 for the contractor/provider; therefore, the contractor/provider will be referred to the program for financial sanctions.

## Checklist for TDH Monitoring

Date: \_\_\_\_\_

Client's name: \_\_\_\_\_

Client's age (use this checklist only if client is under 14): \_\_\_\_\_

Staff person conducting screening: \_\_\_\_\_

Each contractor/provider shall ensure that its employees, volunteers or other staff report a victim of child abuse who is a minor under 14 years of age who has engaged in sexual activity with any individual to whom the minor is not married. Sexual activity would be indicated if the minor is pregnant or has a confirmed diagnosis of a sexually transmitted disease acquired in a manner other than through perinatal transmission.

Using the criteria above, did you determine that a report of child abuse is required? ☐ Yes ☐ No  
If "yes", please report and complete the information below.

Report was made: ☐ Yes ☐ No

Staff person who submitted the report (optional):  
\_\_\_\_\_

Date reported:  
\_\_\_\_\_

Name of agency to which report was made:  
\_\_\_\_\_

DPRS call ID# or law enforcement assigned # (optional)  
\_\_\_\_\_

Name of person who received report (optional):  
\_\_\_\_\_

Phone number of contact (when applicable):  
\_\_\_\_\_

Use of the checklist for TDH monitoring of reporting of abuse of children younger than 14 who are pregnant or have STDs does not relieve contractors or subcontractors of the requirements in Chapter 261, Texas Family Code, to report any other instance of suspected child abuse.